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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,466	02/05/2004	Helmut Preisach	Q79107	2962

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EXAMINER

WILLIAMS, HOWARD L

ART UNIT PAPER NUMBER

2819

DATE MAILED: 05/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

8A

Office Action Summary	Application No. 10/771,466	Applicant(s) PREISACH, HELMUT	
	Examiner Howard L. Williams	Art Unit 2819	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 2-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>020404</u> . | 6) <input type="checkbox"/> Other: _____ |

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claim 1, drawn to a digital to analog converter, classified in class 341, subclass 141.
- II. Claims 2-12, drawn to a phase locked loop and recognition of its operation, classified in class 327, subclass 233. The inventions are distinct, each from the other because of the following reasons:

Inventions of group II and group I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the phase locked loop has a multiple path ("branch") processing arrangement and the digital-to-analog converter is not required. Additionally claims 2-5 and 7-9 in group II do not require the particulars of group I are evidence claims. The subcombination has separate utility such as reduction of glitches in any system using digital-to-analog converters.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant's election without traverse of group I in the reply filed on 08 April 2005 is acknowledged. Claims 2-12 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 08 April 2005.

The drawings are objected to because they lack descriptive labels for the schematic boxes. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are

required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37.CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The disclosure is objected to because of the following informalities: The description uses incongruous and non-idiomatic terminology in conjunction with figure 4. The brief description of the drawings section on page 6 describes figure 4 as a further detail of the phase control circuit of figure 2. On page 9 figure 4 is represented as illustrating the mode of operation of the DAC as a window comparator (?). A DAC that outputs an analog signal and a window comparator that ostensibly outputs a binary signal would seem to be dissimilar elements. Appropriate correction is required.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –


(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as anticipated by Spicer (US 3,877,023). Spicer discloses a digital-to-analog converter system that uses alternating DAC elements (10, 11; fig. 1) and a multiplexing unit (12; fig. 1) that couples the respective DAC outputs to the system output in turn in a continuous sequence (col. 2, lines 11-12).

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 4591832 A to Fling et al. also discloses an alternating DAC arrangement sometimes labeled as "ping-pong" operation. US 4663610 A to Metz et al. discloses a serial DAC with alternating current sources. US 6639534 B2 Khoini-Poorfard et al. discloses an alternating DAC arrangement..

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Howard L. Williams at telephone number (571) 272-1815.

4/26/05
Voice: (571) 272-1815


Howard L. Williams
Primary Examiner
Art Unit 2819